

BOARD OF APPEALS  
for  
MONTGOMERY COUNTY

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Case Nos. CBA-1202-A & A-5605

**PETITION OF BAR-T INC.  
(BAR-T RANCH)**

**OPINION OF THE BOARD**

(Hearings held May 2 and 9, 2001)  
(Effective Date of Opinion: January 7, 2002)

**BACKGROUND**

Case No. CBA-1202-A is a petition for a special exception modification pursuant to §59-G-2.13.1 (Child Day Care Facility) of the Zoning Ordinance to permit: (1) a maximum of 450 campers; (2) a total of 110 employees; (3) approval of all existing structures on the property shown on the Landscape and Lighting Site Plan (Exhibit No. 30); (4) operation of three, three-week summer camp sessions from mid-June to late August; (5) operation of four after camp parties on Fridays from 4:00 p.m. to 8:00 p.m.; (6) four staff training sessions for up to 110 people from 6:00 p.m. to 9:00 p.m.; (7) three Parents/Campers' Orientation sessions for approximately 300 people before the start of each summer session on a Saturday between 12:00 p.m. and 4:00 p.m.; (8) three talent shows involving 150 to 200 cars at the end of each summer session on a Friday afternoon between 2:00 p.m. and 4:00 p.m.; (9) operation of before and after camp child care ending at 6:00 p.m. for approximately 60 children and staffed by six to eight employees; and (10) operation of ten events between early April and late November which include Spring Break Carnival Day, Earth Day/Kindergarten Enrichment Program, Family Appreciation Day, Football Tournament, two church activities, and three nonprofit activities.

Case No. A-5605 is a petition for (1) a 44-foot variance from the minimum 65-foot front yard setback for accessory structures for the existing 10-foot chain link fence surrounding the multi-purpose paved court; and (2) a 65-foot variance from the minimum 65-foot front yard setback for accessory structures for the existing 10-foot chain link fence located directly on the Property line at Olney-Laytonsville Road. The granting of these variances will permit the existing fences to continue at their present locations.

Pursuant to §59-A-4.11 of the Zoning Ordinance, the Board of Appeals held public hearings on May 2 and 9, 2001 in these cases.

The Board called one witness from the Maryland-National Capital Park and Planning Commission (“M-NCPPC”), Kathleen Reilly, the Zoning Analyst who prepared the M-NCPPC Staff Report (Exhibit No. 23).

Emily J. Vaias and Yum Yu Cheng of Linowes and Blocher LLP appeared on behalf of Bar-T, Inc. (the “Petitioner”). Six witnesses were called in support of the application: (1) Joseph F. Richardson, Vice-President of Bar-T, Inc.; (2) Mark Orens, Director of Bar-T, Inc.; (3) Alfred S. Blumberg, II, a land planner; (4) C. Craig Hedberg, a transportation planner; (5) Stephen E. Crum, a civil engineer; and (6) Edward Tydings, a confronting neighbor.

Martin Klauber, the People’s Counsel of Montgomery County, Maryland, also participated in the proceedings.

Although not in opposition to the special exception modification, Anna Mae Pointer, an adjoining neighbor, testified to have her concerns related to the special exception use addressed by the Board.

**Decision of the Board:** Special exception modification and variances **GRANTED**, subject to the Conditions enumerated below.

## **EVIDENCE PRESENTED**

1. The subject property (the “Property”) is Parcel P925, located at 6530 Olney-Laytonsville Road in the R-200 Zone. The Property, known as “Bar-T Ranch”, is comprised of approximately 12.31 acres and has been used for a children’s day camp for almost forty years.
2. The current owners of the Property are Joseph F. Richardson and Nancy E. Richardson (the “Owners”), who reside in the single-family home on the Property. The Owners lease the Property to Bar-T, Inc. (the “Petitioner”) for the primary purpose of operating a children’s summer day camp. Nancy E. Richardson serves as President of Bar-T, Inc. and Joseph F. Richardson is Vice-President. The Petitioner has filed another special exception (S-2463) concurrently with the subject modification to allow it to lease land at Camp Waredaca located approximately 4 miles away, so that the campers can participate in other types of activities not available on the Property.
3. The Property is rectangular in shape and has frontage on both Olney-Laytonsville Road (MD Route 108) and Dorsey Road. The Property has rolling terrain with primary access to the subject use from Dorsey Road and secondary access from Olney-Laytonsville Road.

4. The Property is improved with a single-family detached residence where the Owners reside, an in-ground swimming pool and a wading pool, a large barn, a multi-purpose paved area enclosed by a 10-foot high chain link fence, another 10-foot high chain link fence located directly on the Property line at Olney-Laytonsville Road, an office bathhouse/dressing room, a game room, a clubhouse, several sheds, a stage, a pavilion area, a gazebo, and a large open grassy playing field with outdoor play equipment. The Property is enclosed by a rail fence and landscaping along all the Property lines.
5. The surrounding neighborhood is predominately rural and low density in character. The properties to the south are zoned RE-1 and are developed with single-family uses. The properties to the west are zoned R-200 and also are developed with single-family uses. The property to the north and east of the site across MD Route 108 is zoned RC and is developed with a golf course.
6. The proposed modifications are requested in response to a Notice of Violation (Exhibit No. 14) issued by the Department of Permitting Services recommending modification to the existing special exception to reflect the current physical structures on the Property and the operation of the special exception. No new construction is proposed.
7. The Petitioner proposes approval of all existing structures on the Property as shown on the Landscape and Lighting Site Plan (Exhibit No. 30).
8. The Petitioner proposes a modification to the special exception to accommodate a maximum of 450 campers and a maximum of 110 staff. No more than 350 children and 90 staff are to be on the Property at one time because rotating shifts of up to 125 children are transported by bus to an auxiliary site (Camp Waredaca) for additional recreational opportunities on a daily basis, except when the campers arrive, depart and attend special events on the Property.
9. The child day care center/summer day camp will operate on three, three-week sessions beginning from the first Monday after Montgomery County Schools close for the summer in mid-June and ending after the third week of August. The hours of operation are from 8:30 a.m. to 4:00 p.m., Monday through Friday.
10. Pursuant to Section 50-E-3.7 of the Zoning Ordinance, the Petitioner proposes to provide 50 parking spaces on the Property instead of the required 187 spaces (75 spaces for children, 110 spaces for staff and 2 spaces for the Owners who reside on the Property). The reduction is based on the operational characteristics of the existing use (e.g. use of school buses and car pools) and the desire not to increase impervious area in the rural area. Overflow parking for ancillary events is located in the area shown on Exhibit No. 30.

11. Approximately 50 staff members drive or carpool to the Property between 8:30 a.m. and 8:45 a.m.
12. The campers range in age from five to fourteen and are transported to the Property by eight buses with approximately fifty children per bus and one bus doing two runs. Approximately forty staff members ride the buses with the campers, arriving on the Property between 8:45 a.m. and 9:05 a.m. The buses leave the Property no later than 4 p.m., dropping off the campers at area schools where their parents pick them up.
13. A maximum of 35 families use personal vehicles to drop off and pick up their children at the gazebo where they are assisted by staff.
14. Staff are located at critical points on the Property to ensure adequate and safe circulation and to direct parking when needed for special events.
15. Scheduled activities begin at approximately 9:15 a.m. and end at approximately 3:20 p.m. On the Property, the campers engage in a variety of activities, ranging from drama and crafts to archery, indoor and outdoor team sports, indoor rock climbing, miniature golf and swimming in the two pools. A list of the camp activities and events is contained in the Bar-T Summer Program brochure (Exhibit No. 7). On rainy days, the campers use the barn, locker rooms, game room, and pavilion for indoor activities.
16. The Petitioner seeks approval of several ancillary events that occur immediately prior to, after, or during the nine weeks of summer camp. These events include the following:
  - (a) Four after camp parties on Fridays from 4:00 p.m. until 8:00 p.m. Of the 450 campers, approximately 100 stay for a cookout and extra swim time. Of the 100 campers who stay for the cookout, approximately forty are picked up by parents while approximately sixty are transported by van to Waredaca for a sleepover.
  - (b) Two weekends prior to the first day of camp, there is a pre-camp training session for up to 110 people on the Property. During each of the three camp sessions, a staff meeting is held to review camp issues. The training session and three staff meetings usually begin at 6:00 p.m. and end, with an outdoor activity such as a softball game, at 9:00 p.m.
  - (c) The three Parents/Campers' Orientations occur on the Saturday before the first day of each of the three camp sessions. Parents are invited to visit the camp for a 1.5 hour orientation done in two shifts between 12:00 p.m. and 4:00 p.m. Approximately 300 people may attend per shift to allow the parents to meet the counselors and learn about the camp activities.

- (d) A talent show occurs on a Friday afternoon from 2:00 p.m. to 4:00 p.m. at the end of each of the three camp sessions. Approximately 150 to 200 cars come onto the Property during this event. Parents begin arriving at 1:45 p.m. and usually filter out after their campers perform.
- (e) Before and after camp care for approximately sixty children and staffed by six to eight employees for one week in August when the County public schools do not allow the camp to use school space for the final week of the summer program. Staff and campers will arrive at the Property on a staggered schedule from 7:00 a.m. until the camp day begins at 9:00 a.m. and they will leave between 3:30 p.m. and 6:00 p.m.
17. During the rest of the year, ten events take place on the Property. The events include Spring Break Carnival Day, Earth Day/Kindergarten Enrichment Program, Family Appreciation Day, Football Tournament, and church or other non-profit activities. These events will be considered below.
18. The Upper Rock Creek Master Plan, as amended, does not make specific recommendations for the Property.
19. The Property is exempt from the Forest Conservation Law because no clearing of existing forest or trees will occur under this modification.
20. Exterior lights were installed for security and safety purposes. Some lights are activated by motion and others by photocell. The exterior light located at the residence is switch-controlled. Because the lights are not located along the property lines, they do not cause any spill or glare onto adjoining properties. The location of the lights and the illumination spread are depicted in the Landscape and Lighting Site Plan (Exhibit No. 19(a)).
21. The play shed and fort along Dorsey Road will be relocated to comply with the setback requirements of the R-200 Zone as shown on Exhibit No. 30. Other than these structures and the two fences for which Petitioner seeks variances, the Special Exception is in compliance with all of the applicable development standards for the R-200 Zone. The required standards and actual dimensions are outlined in the following table:

	<b>R-200 Standards</b>	<b>Actual Dimensions</b>
Minimum Net Lot Area	20,000 square feet	536,224 square feet
Minimum Lot Width at Existing Street Line	25 feet	MD Rt 108 - 506 feet Dorsey Rd - 405 feet

Maximum Building Coverage	25%	2.2%
Maximum Building Height	35 feet	31 feet

Front Yard Setback at Route 108	40 feet	58 feet
Side Yard Setback	one side - 12 feet both sides - 25 feet	east side - 155 feet west side - 322 feet
Setback from Street Line for Accessory Structures	65 feet	Satisfied except as noted above.
Setback from Side Lot Line for Accessory Structures	12 feet	Satisfied

22. The Petitioner seeks the following variances to allow the existing fences to continue to remain at their present locations:
  - (a) A 44-foot variance from the minimum 65-foot front yard setback for accessory structures for the existing 10-foot chain link fence located around the perimeters of the multi-purpose paved court (Fence No. 1) such that it is only 21 feet from the front property line.
  - (b) A 65-foot variance from the minimum 65-foot front yard setback for accessory structures for the existing 10-foot chain link fence such that it is directly on the Property line at Olney-Laytonsville Road (Fence No. 2).
23. The multi-purpose paved area provides a surface for outdoor activities such as tennis, basketball, and hockey. Fence No. 1, which encloses the paved court, is located approximately 21 feet away from MD Route 108, and has existed in its current state prior to the acquisition of the Property by the Owners in 1985. The granting of the requested Variance will allow Fence No. 1 to continue to exist in its present location.
24. Joseph Richardson, one of the Owners and Vice President of Bar-T, testified that Fence No. 1 existed in the 1970's when he worked on the Property as a counselor for his predecessor. The purpose of the fence is to keep balls and other objects from going beyond the limits of the courts and into the street.
25. Mark Orens, Director of Bar-T, also testified that Fence No. 1 existed when he was a camper on the Property in the 1970's.

26. The extraordinary conditions peculiar to the Property are the rolling terrain and the location of the existing and proposed septic fields on the Property, as shown on the Site Plan (Exhibit No. 30). An additional extraordinary condition relating to Fence No. 1 is its existence since the 1970's. Based on tests performed on the Property, the existing and proposed septic fields cannot be located anywhere else on the Property. The existing topography and septic fields necessitate the location of athletic facilities in the area adjacent to MD Route 108. The traveling public on MD Route 108 needs to be protected from errant balls, pucks, etc.; and, campers must be prevented from darting out onto the road to retrieve errant pieces of athletic equipment.
27. Strict application of the minimum 65-foot front yard setback for accessory structures to both fences would result in unusual practical difficulties to the Owners of the Property. The fences can not be located elsewhere on the lot because of the rolling terrain of the lot, the location of the existing and proposed septic fields, the location of the existing multi-purpose paved court, and the need to provide a safety barrier for the campers between the paved court and road.
28. The variances are the minimum reasonably necessary to overcome the exceptional conditions and to contain tennis balls, basketballs, pucks, and athletic play on the Property.
29. The fences blend with the surrounding landscape and are consistent in appearance with the surrounding neighborhood and can be approved without substantial impairment to the intent, purpose, or integrity of the Upper Rock Creek Master Plan.
30. Because the fences will contain balls, other objects, and athletic play on the Property, the variances will not be detrimental to the use and enjoyment of adjoining or neighboring properties.
31. Bar-T has received accreditation from the American Camping Association (ACA), and high marks in many areas for its day camp operations since 1997 when it became an ACA member (Exhibit No. 11).
32. The Landscape Plan ( Exhibit No. 19(b)) shows additional buffering being proposed at the following locations:
  - (a) 62 bayberries at 15-18 inches high are proposed to supplement the existing 64 white pines along the west property line;
  - (b) 25 white pines at 4-5 feet high are proposed along the southwest property line;
  - (c) 2 white pines at 4-5 feet high are proposed along Dorsey Road; and

- (d) 3 Leland Cypress at 4-5 feet high are proposed along Olney-Laytonsville Road.
33. The future changes on the Property include (a) replacing the wooden fence around swimming pool with a chain link fence; (b) resurfacing the multi-purpose paved court at its existing location; and (c) constructing the proposed septic field (Exhibit 30).
34. M-NCPPC staff analyzed the proposed modifications and recommended approval with conditions (Exhibit No. 23).
35. The Planning Board also recommended approval with conditions (Exhibit No. 21).
36. Edward Tydings, a confronting neighbor at 6525 Olney-Laytonsville Road, testified in support of the Special Exception, stating that it co-exists very well with the Montgomery Country Club, another special exception use in the area.

Anna Mae Pointer, an adjoining neighbor at 6512 Olney-Laytonsville Road, testified that she was not in opposition to the Special Exception. Her children went to the camp and had worked there when they were older. However, she wanted the Petitioner to direct the music played at the pool away from the Pleasant Acres neighborhood where she resides and to lower the volume of the music. She was also concerned about the noise from the generators used for the Spring Break Carnival and the overflow parking near her property line.

## **FINDINGS OF THE BOARD**

### **Variance Standards**

Based upon the testimony and evidence of record, the Board finds that the variances requested in Case No. A-5605 can be granted. The requested variances comply with the applicable standards and requirements set forth in §59-G-3.1 as follows:

1. *By reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to a specific parcel of property, the strict application of these regulations would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship upon, the owner of such property.*

The Board finds that the rolling terrain of the Property and the location of the existing and proposed septic fields on the Property are extraordinary conditions peculiar to this property. Another extraordinary condition relating to the property is the existence of Fence No. 1 since the 1970's. The Board finds that these factors create difficulties in the siting of the paved court and the fence which is needed to provide a safety barrier

between the court and the road. The Board finds that strict application of the regulations in §59-G-3.1 would create unusual practical difficulties in the siting of the fences which would create an unsafe condition for campers and drivers.

2. *Such a variance is the minimum reasonably necessary to overcome the aforesaid exceptional conditions.*

The Board finds that given the need for the fences to be on the perimeters of the multi-purpose paved court and along Olney-Laytonsville Road, the variances are the minimum reasonably necessary to overcome the exceptional conditions and to contain tennis balls, basketballs, pucks, and athletic play on the Property.

3. *Such a variance can be granted without substantial impairment to the intent, purpose and integrity of the general plan or any duly adopted and approved area master plan affecting the subject property.*

The Board finds that the fences blend with the surrounding landscape and are consistent in appearance with the surrounding neighborhood and that the variances can be granted without substantial impairment to the intent, purpose, or integrity of the Upper Rock Creek Master Plan.

4. *Such variance will not be detrimental to the use and enjoyment of adjoining or neighboring properties.*

The Board finds that because the fences will contain tennis balls, basketballs, pucks, and athletic play on the Property, the variances will not be detrimental to the use and enjoyment of adjoining or neighboring properties and will benefit the traveling public along MD Route 108.

### **Special Exception General Standards**

The Board finds that the proposed modification meets the general standards for granting special exceptions found in §59-G-1.2 as follows:

#### **§59-G-1.2.1 Standard for Evaluation**

*A special exception must not be granted absent the findings required by this Article. In making these findings, the Board of Appeals, Hearing Examiner, or District Council, as the case may be, must consider the inherent and non-inherent adverse effects of the use on nearby properties and the general neighborhood at the proposed location, irrespective of adverse effects the use might have if established elsewhere in the zone. Inherent adverse effects alone are not a sufficient basis for denial of a special exception. Non-inherent adverse effects are physical and operational characteristics not necessarily associated*

*with the particular use, or adverse effects created by unusual characteristics of the site. Non-inherent adverse effects, alone or in conjunction with inherent adverse effects, are a sufficient basis to deny a special exception.*

The inherent aspects are the physical and operational characteristics associated with a child day care/summer day camp, which include outdoor/indoor activities, parking and traffic. The scale and scope of the Special Exception are in harmony with the surrounding neighborhood and will be further mitigated by additional landscaping shown on the Landscape Plan (Exhibit No. 30). Exterior lighting will not have an adverse effect given that the lights are activated by motion for a short period of time and are not located along the property lines. Parking, on-site circulation, access and traffic impact are adequate and safe. Accordingly, the Special Exception will cause no inherent adverse effects on nearby properties.

The non-inherent aspects of the day camp are the special events which include Spring Break Carnival Day, Earth Day/Kindergarten Enrichment Program, Family Appreciation Day, Football Tournament, and church or other non-profit activities. Although these special events will bring a large number of people and vehicles onto the Property, the layout of the land and conditions set forth herein related to landscaping, parking location, and hours of events, will ensure that these aspects do not cause non-inherent adverse effects.

#### **§ 59-G-1.21 General Conditions**

A special exception may be granted when the Board, the Hearing Examiner, or the District Council, as the case may be, finds from a preponderance of the evidence of record that the proposed use:

- (1) *Is a permissible special exception in the zone.*

The Property is zone R-200 and child day care centers are permitted by special exception in the R-200 Zone under § 59-C-1.31.

- (2) *Complies with the standards and requirements set forth for the use in Division 59-G-2. The fact that a proposed use complies with all specific standards and requirements to grant a special exception does not create a presumption that the use is compatible with nearby properties and, in itself, is not sufficient to require a special exception to be granted.*

The proposed modification complies with the standards and requirements for a child day care center under §59-G-2.13.1.

- (3) *Will be consistent with the general plan for the physical development of the District, including any master plan adopted by the Commission. Any decision to grant or deny a special exception must be consistent with any recommendation in an approved and adopted master plan regarding the*

*appropriateness of a special exception at a particular location. If the Planning Board or the Board's technical staff in its report on a special exception concludes that granting a particular special exception at a particular location would be inconsistent with the land use objectives of the applicable master plan, a decision to grant the special exception must include specific findings as to master plan consistency.*

The Special Exception is consistent with the Upper Rock Creek Master Plan in that the outdoor activities and practices of the camp program will help meet the Master Plan's goals of protecting the environment and maintaining the wedge character of the area.

- (4) *Will be in harmony with the general character of the neighborhood considering population density, design, scale and bulk of any proposed new structures, intensity and character of activity, traffic and parking conditions, and number of similar uses.*

All the structures on the Property are one to two stories high, which is within the general rural and residential character of the neighborhood, and are structures common in the rural residential area such as single-family houses, sheds, barns, etc. The Property has 12.31 acres (582,720 square feet), which is more than sufficient space for 450 campers.

Traffic to the Property is controlled because almost all of the children are dropped off by school buses with approximately 35 families dropping off their children. There are 50 parking spaces on the Property which are sufficient for buses and parents to drop off the children and enough parking area for staff to park their cars. During special events, overflow parking is provided in the area shown on Exhibit No. 30. The activities occurring on the Property are in harmony with the neighborhood and there are no similar uses within the area.

- (5) *Will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.*

The Board is concerned with the issues raised by Ms. Pointer, an adjoining neighbor, about music played at the pool, the noise from the generators from the Spring Break Carnival, and the overflow parking near her property line. These issues are specifically addressed in the conditions set forth below. Otherwise, the camp activities are not detrimental to the neighborhood. Evergreen trees line both sides of the Property, buffering the neighboring properties from noise that may come from the Property. Landscaping as shown on Exhibit No. 30, will

provide additional buffering between the Property and adjacent residences.

- (6) *Will cause no objectionable noise, vibrations, fumes, odors, dust, illumination, glare, or physical activity at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.*

With conditions as set forth below, the subject modification will not cause any objectionable noise, odors, dust, illumination, or physical activity on or around the Property.

- (7) *Will not, when evaluated in conjunction with existing and approved special exceptions in any neighboring one-family residential area, increase the number, intensity, or scope of special exception uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area. Special exception uses that are consistent with recommendations of a master or sector plan do not alter the nature of an area*

The only existing special exception neighboring the Property is the Montgomery Country Club on the other side of Olney-Laytonsville Road. When evaluated in conjunction with existing and approved special exceptions in the neighboring one-family residential area, the modification of the existing Special Exception to allow more children to be served by the camp will not increase the number, intensity, or scope of special exception uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area.

- (8) *Will not adversely affect the health, safety, security, morals or general welfare of residents, visitors or workers in the area at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.*

Because the Special Exception satisfies the state and county standards, it will not adversely affect the health, safety, security, morals or general welfare of residents, visitors or workers in the area of the Property, irrespective of any adverse effects the use might have if established elsewhere in the R-200 Zone. The use has operated on the Property for almost forty years and there have been no adverse affects to the health, safety, morals or welfare of residents or visitors.

- (9) *Will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage and other public facilities.*

- (i) *If the special exception use requires approval of a preliminary plan of subdivision, the adequacy of public facilities must be determined by the Planning Board at the time of subdivision review. In that case,*

*subdivision approval must be included as a condition of the special exception.*

Conformance to Chapter 50 (Subdivision Regulations) is included as a condition of approval.

- (ii) *With regard to findings relating to public roads, the Board, the Hearing Examiner or the District Council, as the case may be, must further determine that the proposal will have no detrimental effect on the safety of vehicular or pedestrian traffic.*

Based upon the traffic report (Exhibit No. 10), the Special Exception will not have any adverse effect on the safety of vehicular and pedestrian traffic. The majority of the campers arrive by bus and many staff carpool to the Property.

### **Special Exception - Specific Standards**

The Board finds that the proposed modification meets the applicable specific standards and requirements of §59-G-2.13.1 as follows:

#### **§59-G-2.13.1: Child Day Care Facility**

A child day care facility for 31 or more children may be approved by the Board of Appeals subject to the following regulations:

- (1) *A plan is submitted showing the location of all buildings and structures, parking spaces, driveways, loading and unloading areas, play areas and other uses on the site.*

Based upon the Site Plan (Exhibit No. 30), which shows the existing buildings and structures, parking spaces, driveways, loading and unloading areas, play areas and other uses on the Property, and the evidence presented, the Special Exception conforms with this requirement.

- (2) *Parking is provided in accordance with the Parking Regulations of Article 59-E. The number of parking spaces may be reduced if the applicant demonstrates that the full number of spaces required in Section 59-E-3.7 is not necessary because: (A) existing parking spaces are available on adjacent property or on the street abutting the site that will satisfy the number of spaces required; or (B) a reduced number of spaces would be sufficient to accommodate the proposed use without adversely affecting the surrounding area or creating safety problems.*

The Board will reduce the number of required parking spaces from 110 to 50 because it finds that the bus and carpool system requires fewer parking spaces and the reduced number of spaces will not adversely affect the surrounding area or create safety problems.

- (3) *An adequate area for the discharge and pick up of children is provided.*

An adequate area is provided on the circular driveway near the gazebo and the parking lot off of Dorsey Road for the discharge and pick up of children.

- (4) *The petitioner submits an affidavit that the petitioner will:*

- (A) *comply with all applicable State and County requirements;*
- (B) *correct any deficiencies found in any government inspection; and*
- (C) *be bound by the affidavit as a condition of approval for this special exception*

The Petitioner has submitted an affidavit (Exhibit No. 5) complying with this requirement.

- (5) *The use is compatible with surrounding uses and will not result in a nuisance because of traffic, parking, noise or type of physical activity.*

The Special Exception will be compatible with the surrounding uses and will not result in a nuisance.

- (6) *A landscaping plan must be submitted showing the location, height or caliper and species of all plant materials.*

The Petitioner has submitted a Landscape Plan (Exhibit No. 30) that complies with this requirement.

- (7) *In the one-family residential zones, facilities providing care for more than 30 children must be located on a lot at least 500 square feet per child.*

The Property has 12.31 acres, which is approximately 536,224 square feet. This exceeds the required 225,000 square feet for the 450 children who are enrolled in the camp.

### **Conditions**

Based upon the foregoing, the Board grants the Special Exception Modification and Variances for a Child Day Care Facility, subject to the following conditions:

1. All terms and conditions of the approved Special Exception remain in full force and effect, except as modified herein.

2. The Petitioner is bound by all of its testimony and exhibits of record, the testimony of its witnesses and representations of its attorneys, to the extent that such evidence and representations are identified in this opinion.
3. For the summer of 2001, the use shall be limited to a maximum of 450 children per three-week session and a maximum of 110 employees. A maximum of 350 children and 90 staff are permitted on the site at any one time except for the special events and activities which involve all of the campers. Of the 450 children, approximately 125 children are transported by bus to an auxiliary site, Camp Waredaca, for additional recreational opportunities on a daily basis.
4. Starting in the summer of 2002, the use shall be limited to a maximum of 400 children per three-week session and a maximum of 100 employees. A maximum of 300 children and 85 staff are permitted on the site at any one time. Of the 400 children, approximately 125 children will be transported by bus to Camp Waredaca for additional recreational opportunities on a daily basis.
5. If the Petitioner shows compliance with all of the conditions of this Special Exception approval, including submission of the required reports, the Petitioner may request an administrative modification to increase the number of children to 450 and the number of employees to 110 for the 2002 camp season and summers thereafter.
6. Hours of operation for the child day care facility are from 8:30 a.m. to 4:00 p.m., Monday through Friday, June through August.
7. Compliance with the Landscape and Lighting Plan, weather permitting (Exhibit No. 30).
8. Expansion of the existing shuttle bus program to ensure that at least 90% of the campers and 30% of the staff members are transported to the site by bus each session, as described in the Traffic Report dated March 13, 2001 (Exhibit No. 20(b)), and subsequent amendment dated April 12, 2001 (Exhibit No. 20(c)).
9. Continue the schedule of bus departures no later than 4:00 p.m. to ensure that the buses depart the site prior to the beginning of the evening peak rush hour period between 4:00 p.m. to 6:00 p.m.
10. All transportation of children and staff between the Bar-T Ranch site and the Waredaca site must be by bus.
11. Limit the before-and-after-camp child-care program to no more than 60 children and eight staff during one week in August and for the hours between 7:00 a.m. and 6:00 p.m.

12. All proposed parking must be sited 50 feet from any property line, and the location of overflow parking must be in the area as shown on the Site Plan (Exhibit No. 30).
13. The Applicant may conduct three staff training sessions per year at the site, one on the second Tuesday of each summer session from 6:00 p.m. to 9:00 p.m.
14. The play shed and fort along Dorsey Road must be relocated to comply with the setback requirements of the zone, as shown on Exhibit No. 30.
15. The Applicant must submit an annual report to the Board of Appeals, with copies to the People's Counsel and the adjoining and confronting neighbors, indicating compliance with all conditions of the Special Exception approval. This annual report shall include the dates of the camp operations, the number of campers, the number of staff, the hours of operation, the type and number of non-camp activities and how many people attend such activities occurring on the Property and any other items relevant to showing compliance herewith.
16. The first report will be submitted on September 15, 2001. Thereafter, the report will be submitted by May 1st of each subsequent year indicating the previous year's operations and compliance and any changes for the upcoming year.
17. The Applicant shall erect a six-foot solid fence inside the property line shared by the Pointers (Lot 1 of Pleasant Acres subdivision), and such fence will extend the full length of the Pointer's property. The white pines along the property line will remain and be maintained or replaced as necessary.
18. The Applicant will decrease the volume and redirect the music played at the pool during the normal camp day away from the Pleasant Acres neighborhood. Occasionally, speakers/DJ system may be used for special events.
19. The Applicant may conduct five not-for-profit gatherings per year which are limited to two church-related events, a volunteer firemen's event, a Laytonsville Elementary School event, and the Carol Jean Cancer Foundation event. The Applicant will provide the adjoining and confronting neighbors with thirty days notice of these events.

On a motion by Louise L. Mayer, seconded by Angelo M. Caputo, with Chairman Donald H. Spence, Jr. and Donna L. Barron in agreement, the Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the resolution required by law as its decision on the above-entitled cases.

Board member Mindy Pittell Hurwitz was necessarily absent and did not participate in the Resolution.

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Donald H. Spence, Jr., Chairman  
Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 7<sup>th</sup> day of January, 2002.

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Katherine Freeman  
Executive Secretary to the Board

NOTE:

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and any party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedures.

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (see Section 59-A-4.63 of the Zoning Ordinance). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

See Section 59-A-4.53 of the Zoning Ordinance regarding the twenty-four months' period within which the special exception granted by the Board must be exercised.

See Section 59-A-3.2 of the Zoning Ordinance regarding Use and Occupancy Permit for a Special Exception.

